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MAILED

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OFFICE OF PETITIONS

In re Patent No. 7,670,853
ARVIND N. JINA
Issue Date: March 2, 2010
Application No. 10/533,350
Filed: November 7, 2005
Atty Docket No.
ADCI-010

: DECISION ON REQUEST
: FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 29, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred seven (607) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fourteen (514) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

With regards to the "B" delay period, this application was filed under 35 USC 371(b). Accordingly, the over three year period is based on the date the national stage commenced under 35 USC 371(b). This application commenced the national stage on May 5, 2005. Accordingly, the over three year period begins on May 6, 2008, the day after the date three years after the commencement date, and ends on January 15, 2009, the date before a Request for Continued Examination was filed, and is 255 days, not 257 days as asserted by patentees. Pursuant to 37 CFR 1.703(b)(4), the period from October 17, 2008, the date a Notice of Appeal was filed until

the day before the RCE was filed, or 91 days, is not included in the "B" delay. Accordingly, the "B" delay period is 164 (255 – 91) days.

In view thereof, the patent term adjustment is 514 days (369 days of A delay plus 164 days of net B delay less 19 days of applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred fourteen (514) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,670,853 B2

DATED : March 2, 2010

DRAFT

INVENTOR(S) : ARVIND N. JINA

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 350 days.

Delete the phrase "by 350 days" and insert -- by 514 days--